

1979 WL 42802 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 8, 1979

*1 Robert T. Bockman, Esquire
General Counsel
S. C. Public Service Commission
Post Office Drawer 11649
Columbia, South Carolina 29211

Dear Mr. Bockman:

You have asked whether a State regulatory agency, which has adjudicatory responsibilities pursuant to statute, may meet in executive session to deliberate on matters presented as evidence in public proceedings before it, consistent with the provisions of the newly-enacted Freedom of Information Act.

Section 30-3-40(c) of the Code of Laws of South Carolina, 1976, specifically allowed for the conduct of such deliberations in executive session. However, this law was expressly repealed by Act No. 593 of 1978, the new Freedom of Information Act.

It is also a general rule of statutory construction, subject to certain exceptions, that revision of an act omitting provisions of the previous act evidences an intention to override these provisions. Vol. 1A, Sutherland on Statutory Construction (4th Ed.,) Sec. 23.13. While the matter is not entirely free from doubt, it is the opinion of this Office that the language of the new Freedom of Information Act evidences a legislative intent to repeal the omitted portions of the previous Act.

The provisions of Section 8 of the Act do not permit a state regulatory agency to go into executive session for the purpose of deliberating on matters of public record. The agency may, of course, go into executive session for any of the purposes outlined in Section 8.

I hope that this has been of some assistance to you. If you have any further questions, please do not hesitate to contact me.

Very truly yours,

Katherine W. Hill
Assistant Attorney General

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